

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# **SENATE BILL 1359**

AN ACT

AMENDING SECTION 9-511.02, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL UTILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 9-511.02, Arizona Revised Statutes, is amended to  
3 read:

4       9-511.02. Utility user fees: lien enforcement: procedures:  
5       definition

6       A. A city or town may file a lien on property for the nonpayment of  
7 utility user fees for services provided to the property if the payment of the  
8 fees is delinquent for more than ninety days.

9       B. Before filing the lien, the city or town shall provide written  
10 notice to the owner of the property. The notice shall be given at least  
11 thirty days before filing the lien and shall include an opportunity for a  
12 hearing with a designated city or town official. The notice shall be either  
13 personally served or mailed to the property owner, at the last known address  
14 by certified mail, or to the address to which the tax bill for the property  
15 was last mailed. If the owner does not reside on the property, the notice  
16 shall be sent to the last known address.

17       C. The unpaid utility user fees, from the date of recording in the  
18 office of the county recorder in the county in which the property is located,  
19 are a lien on the property until the fees are paid. The lien is subject and  
20 inferior to the lien for general taxes and to all prior recorded mortgages  
21 and encumbrances of record. A sale of the property to satisfy a lien  
22 obtained under this section shall be made on judgment of foreclosure and  
23 order of sale. A city or town may bring an action to enforce the lien in the  
24 superior court in the county in which the property is located at any time  
25 after the recording, but failure to enforce the lien by this action does not  
26 affect its validity. The recorded unpaid utility user fees are *prima facie*  
27 evidence of the truth of all matters recited in the recording and of the  
28 regularity of all proceedings before the recording.

29       D. Unpaid utility user fees pursuant to this section accrue interest  
30 at the rate prescribed by section 44-1201.

31       E. A prior assessment of unpaid utility user fees for the purposes  
32 provided in this section does not bar a subsequent assessment for these  
33 purposes and any number of liens on the same lot or tract of land may be  
34 enforced in the same action.

35       F. ~~The provisions of~~ Subsection A of this section ~~do~~ DOES not apply to  
36 residential property occupied by a lessee ~~where~~ IF the lessee is responsible  
37 for payment of the utility user fees. The city or town shall determine the  
38 status of leased residential property ~~prior to~~ BEFORE filing the lien. THE  
39 CITY OR TOWN SHALL NOT REQUIRE PAYMENT OF UNPAID USER FEES BY THE PROPERTY  
40 OWNER AS A CONDITION OF PROVIDING NEW SERVICE OR RESTORING SERVICE TO A  
41 LESSEE WHO IS RESPONSIBLE FOR PAYMENT OF THE UTILITY USER FEES.

42       G. For THE purposes of this section, "utility user fees" means fees  
43 charged for the provision of sewer.